

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**DON E. DENNIS**

**PLAINTIFF**

**vs.**

**NO. 4:08CV00063-MPM-DAS**

**SECRETARY MIKE JOHANNS, ET AL.,**

**DEFENDANTS**

**ORDER**

The court hereby adopts the report and recommendation (R&R) of the Magistrate Judge recommending that this case be dismissed. In so recommending, the Magistrate Judge noted as follows:

As the defendant points out, the plaintiff made the identical allegations in his complaint filed in *Dennis v. Mike Johanns, Secretary, U. S. Dept. of Agriculture*, No. 4:04cv247-WAP-EMB on December 17, 2004. This Court dismissed the complaint in that case with prejudice for lack of subject matter jurisdiction, lack of personal jurisdiction, insufficiency of process, insufficiency of service of process and for failure to state a claim on August 8, 2005. Furthermore, the Fifth Circuit denied the plaintiff's appeal of that decision for want of prosecution on March 31, 2006.

The plaintiff has filed an untimely motion for extension of time to obtain counsel to respond to the R&R, but he has provided no argument or evidence contradicting the Magistrate Judge's finding that this lawsuit is duplicative of a lawsuit which was previously dismissed by this court and by the Fifth Circuit. The court concludes that plaintiff should be given no further opportunity to pursue this previously adjudicated lawsuit, and defendant's motion to dismiss [9-1] is therefore granted.

SO ORDERED, the 4<sup>th</sup> day of December, 2008.

/s/ MICHAEL P. MILLS  
**CHIEF JUDGE**  
**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF MISSISSIPPI**